Filed: 8/26/2022 9:10 AM

USDC IN/ND case 3:22-cv-00848-DRL-MGG document 3 filed 08/26/22 page Labble county, Indiana

STATE OF INDIANA )	IN THE LAPORTE	COURT	
) SS:	40004 2200 OT	004000	
COUNTY OF LAPORTE )	CAUSE NO. 46C01-2208-C1	CAUSE NO. 46C01-2208-CT-001362	

KAHLIA DUNNING, Personal Representative of the Estate of JOSE JENKINS, JR., Deceased

VS.

ANTHONY SMITH and B & B TRUCKING, INC.

## **COMPLAINT FOR DAMAGES**

Come now the Plaintiff, Kahlia Dunning, Personal Representative of the Estate of Jose Jenkins, Jr., Deceased, by counsel, Ken Nunn Law Office, and for their cause of action against the Defendants, Anthony Smith and B & B Trucking, Inc., alleges and states as follows:

### STATEMENT AND JURISDICTION

- 1. This is a clear liability collision in which Defendants' 2012 Volvo VNM tractor-trailer was negligently driven by Anthony Smith, causing him to strike the plaintiff, Jose Jenkins, Jr., a pedestrian. As a result of the collision, Jose Jenkins, Jr. sustained serious injuries which thereafter resulted in his death on November 18, 2021.
- 2. Jurisdiction and venue are appropriate in LaPorte County, Indiana, as said collision occurred within the boundaries of LaPorte County, State of Indiana.

# **FIRST CAUSE OF ACTION**

### NEGLIGENCE OF TRUCK DRIVER

- 3. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 2 above as if fully restated verbatim.
- 4. The plaintiff, Kahlia Dunning, is the sister of Jose Jenkins, Jr., deceased, and the court-appointed personal representative of the Estate of Jose Jenkins, Jr., deceased.
- 5. On or about November 18, 2021, Defendant, Anthony Smith, negligently drove a tractor-trailer striking the plaintiff, Jose Jenkins, Jr., deceased, who was a pedestrian.
- 6. Defendant Anthony Smith had a duty to operate his tractor trailer in a safe and reasonable manner.

- 7. Defendant Anthony Smith failed in the above mentioned duties and is therefore negligent.
- 8. Defendant Anthony Smith's negligence was the direct and proximate cause of Plaintiff's injuries.
- 9. Jose Jenkins, Jr. sustained serious injuries which thereafter caused his death on November 18, 2021.
- 10. As a direct and proximate result of Anthony Smith's negligence, Jose Jenkins, Jr., incurred medical, funeral, and burial expenses for such decedent in an amount to be proven at the trial of this cause.

## **SECOND CAUSE OF ACTION**

### NEGLIGENCE PER SE OF TRUCK DRIVER

- 11. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 10 above as if fully restated verbatim.
- 12. Anthony Smith violated state and federal statutes and regulations including but not limited to Title 9 of the Indiana Code.
- 13. Defendant Anthony Smith's statutory violations directly and proximately caused the damages and injuries of Jose Jenkins, Jr., deceased.
- 14. Defendant Anthony Smith is negligent per se based on these statutory and regulatory violations.

## THIRD CAUSE OF ACTION

#### RESPONDEAT SUPERIOR OF TRUCK COMPANY

- 15. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 14 above as if fully restated verbatim.
- 16. Defendant Anthony Smith was the employee, agent, servant, or independent contractor for B & B Trucking, Inc. Accordingly, B & B Trucking, Inc. is vicariously liable for the acts of Defendant Anthony Smith for the causes of action above.

WHEREFORE, the Plaintiff, Kahlia Dunning, Personal Representative of the Estate of Jose Jenkins, Jr., deceased, by counsel, Ken Nunn Law Office, demand judgment against the Defendants, Anthony Smith and B & B Trucking, Inc. for permanent injuries in a reasonable amount to be determined at the trial of this cause, for medical, funeral, and burial expenses.

#### KEN NUNN LAW OFFICE

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## **REQUEST FOR TRIAL BY JURY**

Comes now the plaintiff, by counsel, Ken Nunn Law Office, and requests that this matter be tried by jury pursuant to Trial Rule 38.

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